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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/943,014	08/29/2001	Dulcie Elizabeth Papsco	Papsco - 2	9513

7590 07/28/2004  
Risto A. Rinne, Jr.  
Suite E  
2173 East Francisco Blvd  
San Rafael, CA 94901

EXAMINER


SHERR, CRISTINA O

ART UNIT	PAPER NUMBER
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3621

DATE MAILED: 07/28/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 09/943,014	<b>Applicant(s)</b> PAPSCO ET AL. 	
	<b>Examiner</b> Cristina O Sherr	<b>Art Unit</b> 3621	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 29 August 2001.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>5/7/2002</u> . | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

1. This communication is in response to the application filed 30 August 2001.

Claims 1-20 have been examined in this case.

#### ***Information Disclosure Statement***

2. The information disclosure statement (IDS) submitted on 7 May 2002 is in compliance with the provisions of 37 CFR 1.97. Accordingly, the examiner is considering the information disclosure statement.

#### ***Specification***

3. The specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

#### ***Double Patenting***

4. Claims 1-20 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-20 of U.S. Pub. No. 2002/0194298.
5. Although the conflicting claims are not identical, they are not patentably distinct from each other.
6. Claims 1-19 of U.S. Pub. No. 2002/0194298 recite:
- a selective audio data base and system, comprising: means for providing access to a common carrier, said common carrier adapted to transmit a file of audio signals from a first location to second location;

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- a server connected to said common carrier at said first location; a data base connected to said server, said data base including audio signals and wherein said file of audio signals is sufficient encode a musical composition;
- and through said common carrier second location;
- wherein said common carrier includes a telephone line or Internet;
- wherein said data base each of said plurality audio signals sufficient to encode a different narrative;
- wherein said plurality of files includes a short story;
- wherein said means for signals through said common carrier user disposed at said second location includes means for providing said user data base and system of claim transmitting said file of audio with said file in real time;
- wherein said means for transmitting said file of audio signals through said common carrier user disposed at said second location includes means for providing said user with said file compressed format that requires less time than is required to listen to said narrative;
- including means for subscribing wherein authorization to obtain access to said file is denied said user until said user has complied with said means for subscribing;

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- wherein said means for subscribing includes a monthly subscription;
- wherein said means for subscribing includes a subscription for a time interval other than monthly;
- wherein said means for subscribing includes paying each access said system;
- wherein said means for subscribing includes means for paying for amount of time said access provided.
- wherein said means for paying includes providing access via a telephone number that includes a charge that is made for each unit elapsed time and wherein the elapsed time accrues whenever said user is connected to said server;
- including means for receiving said file of audio signals at said second location;
- wherein said means for receiving includes a transceiver;
- wherein said transceiver is adapted to transmit said file of audio signals in a third location;
- wherein said third location includes means for receiving said transmitted file audio signals from said transceiver and includes means for converting format adapted for listening said narrative;
- wherein said third location is disposed in a figurine;
- wherein said figurine includes a stuffed figurine.

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7. Claims 1-19 of U.S. Pub. No. 2002/0194298 differ since they do not refer to musical compositions but rather to narrative or stories. It would, however, be obvious to one of ordinary skill in the art to modify claims 1-19 of U.S. Pub. No. 2002/0194298 from stories to music or to stories in different languages, for example, especially since said practitioner would be dealing with different audio data the whole time.

8. Claim 20 of U.S. Pub. No. 2002/0194298 recites:

- a method of providing a selective narrative data base and system, comprising the steps: providing access to a common carrier; providing a server connected to said common carrier; providing a data base that is connected said server, said data base including a plurality of files of audio signals that are each sufficient to encode musical composition; providing means for selecting a particular file of audio signals user from said plurality files; transmitting said particular file of audio signals said user using said common carrier.

9. Claim 20 of U.S. Pub. No. 2002/0194298 differs since it does not refer to musical compositions but rather to narrative or stories. It would, however, be obvious to one of ordinary skill in the art to modify claims 1-19 of U.S. Pub. No. 2002/0194298 from stories to music or to stories in different languages, for example, especially since said practitioner would be dealing with different audio data the whole time.

### ***Conclusion***


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10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cristina O Sherr whose telephone number is 703-305-0625. The examiner can normally be reached on Monday through Friday 8:30 to 5:00.

11. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Trammell can be reached on 703-305-9768. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

12. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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JAMES P. TRAMMELL  
SUPERVISOR OF EXAMINERS  
TECHNOLOGY CENTER 3600